

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1029

Workplace Safety

SPONSOR(S): Gibson

TIED BILLS:

IDEN./SIM. BILLS: SB 1878

	REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1)	Governmental Affairs Policy Committee	9 Y, 0 N	Haug	Williamson
2)	Insurance, Business & Financial Affairs Policy Committee			
3)	Economic Development & Community Affairs Policy Council			
4)	Full Appropriations Council on General Government & Health Care			
5)				

SUMMARY ANALYSIS

This bill requires all public employers to comply with specified federal Occupation Safety and Health Administration (OSHA) standards by June 30, 2012. Additionally, the Division of Workers' Compensation must establish and publicize a toll-free telephone number for public employees to obtain information and report unsafe workplace conditions.

The bill also requires public employers to submit injury and illness data to the Department of Financial Services, Division of Workers' Compensation. The bill also authorizes the Division of Workers' Compensation to adopt rules related to the data collection and requires that such data and related reports be made available on the Division's website.

This bill has an indeterminate fiscal impact on state and local governments.

The bill has an effective date of July 1, 2009.

HOUSE PRINCIPLES

Members are encouraged to evaluate proposed legislation in light of the following guiding principles of the House of Representatives

- Balance the state budget.
- Create a legal and regulatory environment that fosters economic growth and job creation.
- Lower the tax burden on families and businesses.
- Reverse or restrain the growth of government.
- Promote public safety.
- Promote educational accountability, excellence, and choice.
- Foster respect for the family and for innocent human life.
- Protect Florida's natural beauty.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

In 2008 the Florida Legislature passed CS/CS/HB 967 creating the Florida Public Task Force on Workplace Safety. The purpose of this task force was to develop findings and issue recommendations regarding innovative ways to ensure Florida's public employers comply with applicable Occupational Safety and Health Administration (OSHA) standards. It addressed issues including (a) differences in the workplace safety needs of private sector and public sector employers, (b) the relationship between federal and state activities related to workplace safety; and (c) the economic effects of public sector workplace safety and health on the state.

These recommendations emanate in large part from two current safety regulations and data provided by the Florida Division of Workers' Compensation. Executive Order 2000-292 directs state-level agencies to comply voluntarily with occupational and health safety regulations 29 CFR 1910 (1993) standards as the basis for their safety practices. Section 284.50, F.S., establishes the Interagency Advisory Council (IAC) to coordinate safety compliance and education among these agencies.

The task force agreed that no difference exists in the workplace safety needs of public and private employers or employees. The primary recommendation was legislation requiring all cities, counties, municipalities, school districts, state agencies and special districts to comply with both 29 CFR 1910¹ (General Industry) and 29 CFR 1926² (Construction) standards within three years.

Four additional recommendations were made by the task force:

- The state should require all Florida public employers to collect and retain injury and illness data as incidents occur, using the OSHA Recordable criteria and Form 300.
- The Florida Division of Workers' Compensation should expand its annual report to include a "state-of-the-state" report covering all public entities. The report card should list each employer's workers' comp claim costs, injury totals, injury incident rate per 100 employees, and fatalities.
- The state should provide a confidential toll-free telephone number for public employers and employees to ask questions, report perceived unsafe working conditions, and request materials and assistance.

¹ <http://frwebgate4.access.gpo.gov/cgi-bin/TEXTgate.cgi?WAISdocID=811252493700+2+1+0&WAISaction=retrieve>.

² <http://frwebgate5.access.gpo.gov/cgi-bin/TEXTgate.cgi?WAISdocID=811697402476+2+1+0&WAISaction=retrieve>.

- The Division of Workers' Compensation should compile a list of professional safety resources to help public employers strengthen workplace safety programs.³

Effect of Proposed Change

This bill requires all public entities in Florida to use the same work-related injuries and illness reporting format beginning October 1, 2009. The goal of this requirement is provide greater consistency and reliability of injury and accident data. This data will be used to correct identified patterns of unsafe work environments and enable specific focus on areas that need special emphasis.

Both the OSHA office in the United States Department of Labor and the Risk Management office in the Department of Financial Services (DFS) compile large quantities of data that are used to develop trending of accidents and injuries. The standardization of reporting required by the bill on OSHA 300 and 300-A forms⁴ will improve the ability of DFS to analyze and respond to the data reported (commercially available safety software is designed to integrate with these OSHA forms).

The Division of Workers' Compensation must include on its website safety information, including a list of professional resources. Such website must be accessible to all Florida public sector employers. Additionally, the Division of Workers' Compensation must adopt rules related to the data collection and provide access to the data and related reports on its website. Employers must retain the data reports for seven years.

The Division of Workers' Compensation must establish a toll-free telephone number for public employees related to workplace safety. All public employers must comply with certain federal OSHA standards by June 30, 2012.

The Department of Financial Services' annual report requirements are revised to include an analysis and summary on public employers' work-related injuries and workers' compensation claims. Such report may be provided electronically. A copy of the report must be provided to each public employer and related governing official.

B. SECTION DIRECTORY:

Section 1. Creates s. 440.1026, F.S., relating to public employer workplace safety.

Section 2. Amends s. 440.59, F.S., relating to workers' compensation reporting requirements.

Section 3. Provides an effective date of July 1, 2009.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

Indeterminate. Increased workplace safety should reduce workplace injuries and productivity losses associated with such injuries.

2. Expenditures:

See Fiscal Comments.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

³ Florida Public Task Force on Workplace Safety Final Report (Dec. 18, 2008). *See also* <http://www.floridaworkplacesafety.org/Documents/FINAL%20REPORT.pdf>.

⁴ <http://www.osha.gov/recordkeeping/new-osha300form1-1-04.pdf>.

1. Revenues:

Indeterminate. Increased workplace safety should reduce workplace injuries and productivity losses associated with such injuries.

2. Expenditures:

See Fiscal Comments.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

This bill has an indeterminate fiscal impact on state and local governments.

The Department of Management Services provided the following fiscal note:

The Department of Financial Services would be required to post safety information on its website and provide information links. A toll free number would need to be established and staffed for public employers in Florida to ask questions, request materials, seek assistance related to workplace safety and report perceived unsafe workplace conditions. This will require qualified and experienced professional staff.

The management of state buildings by DMS involves a significant number of staff with occupations subject to a greater need for safety. The nature of work requirements results in a number of accidents that will require reporting to the Department of Financial Services. For the 2008-09 there were 124 incidents reported. Estimated time involved with the impact of this legislation is as follows:

- (FY 09-10) DMS an extra 7 hours per month for one (1) FTE
- (FY 10-11) DMS an extra 9.5 hours per month for one (1) FTE
- (FY 11-12) DMS an extra 12 hours per month for one (1) FTE⁵

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The mandates provision appears to apply because the bill requires all public sector employers, including municipalities and counties, to comply with specified OSHA requirements and new DMS reporting requirements. The bill does not appear to qualify for an exemption or exception other than similarly situated persons are all required to comply with the requirements of the bill. Therefore, the legislature must determine that the bill fulfills an important state interest.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill authorizes the Division of Workers' Compensation to adopt rules related to data collection.

C. DRAFTING ISSUES OR OTHER COMMENTS:

For clarification, the definition of "OSHA" should include the words "United States" before "Department of Labor" on line 31 of the bill.

⁵ Department of Management Services HB 1029 (2009) Substantive Bill Analysis (Mar. 10, 2009) at 3 (on file with the Governmental Affairs Policy Committee).

IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES

None.